

U.S. District Court
Southern District of Illinois (East St. Louis)
CIVIL DOCKET FOR CASE #: 3:16-cv-00635-NJR-DGW

Turner v. United States Forest Service
Assigned to: Judge Nancy J. Rosenstengel
Referred to: Magistrate Judge Donald G. Wilkerson
Cause: 05:552 Freedom of Information Act

Date Filed: 06/13/2016
Date Terminated: 08/30/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Seth F Turner**

represented by **Frederick Turner**
Frederick Turner, Jr.
Pope County
207 E. Main St.
P.O. Box 512
Golconda, IL 62938
618-683-8381
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ATTORNEY TO BE NOTICED

V.

Defendant

United States Forest Service
an administrative agency of the United States Department of Agriculture

represented by **Suzanne M. Garrison**
Assistant U.S. Attorney – Fairview Heights
Generally Admitted
9 Executive Drive
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Fairview Heights, IL 62208
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/13/2016	<u>1</u>	COMPLAINT against United States Forest Service (Filing fee \$ 400 receipt number 0754-2963388.), filed by Seth F. Turner. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Exhibit FOIA request, # <u>4</u> Exhibit Correspondence 05/14/14, # <u>5</u> Exhibit Gating Agreement, # <u>6</u> Exhibit Correspondence 12/04/15, # <u>7</u> Exhibit Email 08/09/2013 redacted, # <u>8</u> Exhibit Email 08/09/2013)(Turner, Frederick) (Entered: 06/13/2016)
06/14/2016	<u>2</u>	Notice of Judge Assignment. Judge Nancy J. Rosenstengel and Magistrate Judge Donald G. Wilkerson assigned. All future documents must bear case number 16-635-NJR-DGW. If the parties consent to Magistrate Judge assignment, the consent form with instruction is attached for your convenience. (jlrr) (Entered: 06/14/2016)
06/14/2016	<u>3</u>	Summons Issued as to United States Forest Service. Original summons mailed to attorney, Frederick Turner, Jr. (jlrr) (Entered: 06/14/2016)
06/15/2016	<u>4</u>	NOTICE OF ERRORS AND/OR DEFICIENCIES. See Local Rule 83.1(f). In all cases filed in, removed to, or transferred to this court, all attorneys, including government attorneys, shall file a written entry of appearance before addressing the court. Attorney Turner does not have a Notice of Appearance on file in this case and is instructed to file a formal Notice of Appearance as soon as possible. (jlrr)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION

		WILL BE MAILED. (Entered: 06/15/2016)
06/15/2016	<u>5</u>	NOTICE of Appearance by Frederick Turner on behalf of Seth F Turner (Turner, Frederick) (Entered: 06/15/2016)
08/08/2016	<u>6</u>	NOTICE of Appearance by Suzanne M. Garrison on behalf of United States Forest Service (Garrison, Suzanne) (Entered: 08/08/2016)
08/08/2016	<u>7</u>	First MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to Plaintiff's Complaint</i> by United States Forest Service. (Garrison, Suzanne) (Entered: 08/08/2016)
08/09/2016	<u>8</u>	ORDER GRANTING <u>7</u> First MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to Plaintiff's Complaint</i> filed by United States Forest Service. Defendant is GRANTED an extension of time, up to and including September 19, 2016 , to file its answer or otherwise respond to Plaintiff's complaint. Signed by Magistrate Judge Donald G. Wilkerson on 8/9/2016. (nms)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 08/09/2016)
09/13/2016	<u>9</u>	Second MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to Plaintiff's Complaint</i> by United States Forest Service. (Garrison, Suzanne) (Entered: 09/13/2016)
09/14/2016	<u>10</u>	ORDER GRANTING <u>9</u> Second MOTION for Extension of Time to File Answer re <u>1</u> Complaint <i>or Otherwise Respond to Plaintiff's Complaint</i> filed by United States Forest Service. Defendant is GRANTED an extension of time, up to and including October 19, 2016 , to file its answer or otherwise respond to Plaintiff's complaint. Signed by Magistrate Judge Donald G. Wilkerson on 9/14/2016. (nms)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 09/14/2016)
10/19/2016	<u>11</u>	Third MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to Plaintiff's Complaint</i> by United States Forest Service. (Garrison, Suzanne) (Entered: 10/19/2016)
10/19/2016	<u>12</u>	ORDER GRANTING <u>11</u> Motion for Extension of Time to Answer: Responsive pleading due by November 19, 2016. Signed by Magistrate Judge Donald G. Wilkerson on 10/19/16. (sgp)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 10/19/2016)
11/18/2016	<u>13</u>	Fourth MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint, by United States Forest Service. (Garrison, Suzanne) (Entered: 11/18/2016)
11/30/2016	<u>14</u>	ORDER GRANTING <u>13</u> Fourth MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint filed by United States Forest Service. Defendant United States Forest Service is GRANTED an extension of time, up to and including 12/30/2016 , to file its answer or otherwise respond to Plaintiff's complaint. While the Court recognizes the parties are attempting to resolve this matter with limited involvement of the Court, it notes that this is the fourth extension of time Defendant has been granted to respond to Plaintiff's complaint, and cautions that its patience with said requests is not unlimited. Signed by Magistrate Judge Donald G. Wilkerson on 11/30/2016. (nms)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 11/30/2016)
12/29/2016	<u>15</u>	MOTION for More Definite Statement by United States Forest Service. (Garrison, Suzanne) (Entered: 12/29/2016)
12/29/2016	<u>16</u>	MOTION to Strike <u>1</u> Complaint, <i>SURPLUSAGE</i> by United States Forest Service. (Garrison, Suzanne) (Entered: 12/29/2016)
01/12/2017	<u>17</u>	RESPONSE in Opposition re <u>16</u> MOTION to Strike <u>1</u> Complaint, <i>SURPLUSAGE</i> filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit FOIA Response Letters)(Turner, Frederick) (Entered: 01/12/2017)
01/12/2017	<u>18</u>	RESPONSE to Motion re <u>15</u> MOTION for More Definite Statement filed by Seth F Turner. (Turner, Frederick) (Entered: 01/12/2017)

05/23/2017	<u>19</u>	ORDER: Plaintiff is hereby ORDERED to file an amended complaint by June 13, 2017 . In light of the anticipated filing of an amended complaint, the Court FINDS AS MOOT <u>15</u> MOTION for More Definite Statement filed by United States Forest Service and <u>16</u> MOTION to Strike <u>1</u> Complaint, <i>SURPLUSAGE</i> filed by United States Forest Service. Signed by Magistrate Judge Donald G. Wilkerson on 5/23/2017. (nms) (Entered: 05/23/2017)
06/13/2017	<u>20</u>	AMENDED COMPLAINT <i>FOIA</i> against All Plaintiffs, filed by Seth F Turner. (Attachments: # <u>1</u> Exhibit 2015 FOIA request, # <u>2</u> Exhibit Email receipt for 2015 FOIA, # <u>3</u> Exhibit 2nd Email receipt for 2015 FOIA, # <u>4</u> Exhibit 07/01/2016 FOIA response – no records, # <u>5</u> Exhibit 07/15/2016 FOIA letter confirming 07/01/2016 response, # <u>6</u> Exhibit 10/04/2016 FOIA Letter – re 529 pages, # <u>7</u> Exhibit 11/10/2016 FOIA Letter – additional 433 pages, # <u>8</u> Exhibit 12/12/2016 FOIA Letter w/email strings, # <u>9</u> Exhibit 05/14/2014 FOIA response Letter, # <u>10</u> Exhibit Gating Agreement, # <u>11</u> Exhibit 12/04/15 USFWS FOIA letter, # <u>12</u> Exhibit Emails re gating of Griffith Cave, # <u>13</u> Exhibit Emails re gating of Griffith Cave – not redacted, # <u>14</u> Exhibit Memorandum of Understanding – Stantec and Pioneer, # <u>15</u> Exhibit IDNR comments on Pioneer Draft Conservation Plan, # <u>16</u> Exhibit 11/25/2014 USFWS letter to Plaintiff, # <u>17</u> Exhibit 04/22/2013 Email string re gating of Magazine and Griffith Cave, # <u>18</u> Exhibit 09/23/2013 Email string re Cave Gate Contractor)(Turner, Frederick) (Entered: 06/13/2017)
06/27/2017	<u>21</u>	MOTION for Extension of Time to File Answer re <u>20</u> Amended Complaint,,,, by United States Forest Service. (Garrison, Suzanne) (Entered: 06/27/2017)
06/27/2017	<u>22</u>	ORDER GRANTING <u>21</u> MOTION for Extension of Time to File Answer re <u>20</u> Amended Complaint, filed by United States Forest Service. United States Forest Service answer due 7/11/2017. Signed by Magistrate Judge Donald G. Wilkerson on 6/27/17. (sgp)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 06/27/2017)
06/29/2017	<u>23</u>	CJRA TRACK B assigned: Final Pretrial Conference set for 5/15/2018 at 1:30 PM in East St. Louis Courthouse before Judge Nancy J. Rosenstengel. Presumptive Bench Trial month set for June, 2018. (Attachments: # <u>1</u> Consent to Magistrate Judge)(drb) (Entered: 06/29/2017)
07/11/2017	<u>24</u>	ANSWER to <u>20</u> Amended Complaint for Declaratory and Injunctive Relief by United States Forest Service. (Garrison, Suzanne) Modified on 7/12/2017 (jsm2). (Entered: 07/11/2017)
07/12/2017	<u>25</u>	NOTICE OF MODIFICATION re <u>24</u> Amended Answer to Complaint filed by United States Forest Service. Document is "Answer to Amended Complaint" and clerk to modify entry to reflect same. No further action is required by the filer in relation to this notification. (jsm2)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 07/12/2017)
07/26/2017	<u>26</u>	NOTICE of Scheduling and Discovery Conference: Telephone Scheduling/Discovery Conference set for 8/24/2017 at 1:30 PM in East St. Louis Courthouse before Magistrate Judge Donald G. Wilkerson. (jmp) (Entered: 07/26/2017)
07/30/2017	<u>27</u>	CONSENT/NON-CONSENT TO U.S. MAGISTRATE JUDGE – sealed pending receipt from all parties. (Turner, Frederick) (Entered: 07/30/2017)
07/31/2017	<u>28</u>	NOTICE REGARDING FILING re <u>27</u> Consent/Non-Consent to US Magistrate Judge. Other: Civil Cover Sheet, submitted summonses and other documents are fillable documents. Fillable documents should be converted to non-fillable PDF before filing on CM/ECF. This Notice is sent for informational purposes only. (jsm2)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 07/31/2017)
08/03/2017	<u>29</u>	MOTION to Vacate <u>26</u> Notice of Scheduling and Discovery Conference by United States Forest Service. (Garrison, Suzanne) (Entered: 08/03/2017)
08/11/2017	<u>30</u>	RESPONSE in Opposition re <u>29</u> MOTION to Vacate <u>26</u> Notice of Scheduling and Discovery Conference filed by Seth F Turner. (Turner, Frederick) (Entered: 08/11/2017)

08/23/2017	<u>31</u>	ORDER DENYING <u>29</u> MOTION to Vacate <u>26</u> Notice of Scheduling and Discovery Conference filed by United States Forest Service. Telephonic conference will be held on August 24, 2017 at 1:30 p.m. as scheduled. Signed by Magistrate Judge Donald G. Wilkerson on 8/23/2017. (nms)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 08/23/2017)
09/19/2017	<u>32</u>	ORDER re <u>30</u> Response in Opposition to Motion filed by Seth F Turner. Dispositive Motions due by 10/20/2017. Signed by Magistrate Judge Donald G. Wilkerson on 9/19/2017. (nms) (Entered: 09/19/2017)
10/20/2017	<u>33</u>	MOTION for Summary Judgment by United States Forest Service. Responses due by 11/27/2017 (Attachments: # <u>1</u> FOIA Request, # <u>2</u> 12-2-15 Acknowledgment Confirmation, # <u>3</u> 7-1-16 Response Letter, # <u>4</u> 7-15-16 Response Letter, # <u>5</u> Turner 10-5-17 Response Letter, # <u>6</u> Turner 11-10-16 Response Letter, # <u>7</u> Turner 12-12-16 Response Letter, # <u>8</u> Sept. 2017 Response Letter, # <u>9</u> Executed Lechner Declaration)(Garrison, Suzanne) (Entered: 10/20/2017)
11/27/2017	<u>34</u>	RESPONSE in Opposition re <u>33</u> MOTION for Summary Judgment filed by Seth F Turner. (Attachments: # <u>1</u> Exhibit Redacted FS MSJ, # <u>2</u> Affidavit Plaintiff's Declaration, # <u>3</u> Exhibit 2013 FOIA response, # <u>4</u> Exhibit Cave Gating Agreement, # <u>5</u> Exhibit Bat Count Data, # <u>6</u> Exhibit HCP Citation- Bat Count, # <u>7</u> Exhibit EA Citation = Bat Count, # <u>8</u> Exhibit FONSI, # <u>9</u> Exhibit EA comments, # <u>10</u> Exhibit ISS, # <u>11</u> Exhibit 2016 FOIA Request, # <u>12</u> Exhibit 2016 FOIA response, # <u>13</u> Exhibit Work around email, # <u>14</u> Exhibit IDNR Letter, # <u>15</u> Exhibit 10/04/16 Response, # <u>16</u> Exhibit 11/2016 email 1, # <u>17</u> Exhibit 11/2016 email 2, # <u>18</u> Exhibit Planning email 1, # <u>19</u> Exhibit Planning email 2, # <u>20</u> Exhibit Planning email 3, # <u>21</u> Exhibit 09/2017 FOIA Letter, # <u>22</u> Exhibit Missing email 1, # <u>23</u> Exhibit Missing email 2, # <u>24</u> Exhibit Missing email 3, # <u>25</u> Exhibit USFWS email, # <u>26</u> Exhibit FS partial email thread, # <u>27</u> Exhibit Permit finances, # <u>28</u> Exhibit Nicholas letter, # <u>29</u> Exhibit Magnuson letter, # <u>30</u> Exhibit Magnuson role -EA, # <u>31</u> Exhibit 2016 FOIA metadata, # <u>32</u> Exhibit 2015 FOIA metadata, # <u>33</u> Exhibit Lechner metadata 1, # <u>34</u> Exhibit Lechner metadata 2, # <u>35</u> Exhibit Lechner metadata 3, # <u>36</u> Exhibit Lechner metadata 4, # <u>37</u> Exhibit Lechner metadata 5, # <u>38</u> Exhibit Lechner metadata 6)(Turner, Frederick) (Entered: 11/27/2017)
11/27/2017	<u>35</u>	First MOTION for Summary Judgment by Seth F Turner. Responses due by 1/2/2018 (Turner, Frederick) (Entered: 11/27/2017)
11/27/2017	<u>36</u>	MOTION to Strike <u>33</u> MOTION for Summary Judgment <i>Att.9, Declaration of Matthew Lechner</i> by Seth F Turner. (Turner, Frederick) (Entered: 11/27/2017)
12/11/2017	<u>37</u>	MOTION to Withdraw <i>Exhibit 9 to Document 33 and to Substitute a Revised Declaration of Matthew Lechner</i> by United States Forest Service. (Attachments: # <u>1</u> Revised Lechner Declaration)(Garrison, Suzanne) (Entered: 12/11/2017)
12/11/2017	<u>38</u>	RESPONSE in Opposition re <u>36</u> MOTION to Strike <u>33</u> MOTION for Summary Judgment <i>Att.9, Declaration of Matthew Lechner</i> filed by United States Forest Service. (Attachments: # <u>1</u> Revised Lechner Declaration, # <u>2</u> Lechner Motion to Strike Declaration, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2)(Garrison, Suzanne) (Entered: 12/11/2017)
12/18/2017	<u>39</u>	ORDER GRANTING <u>37</u> Motion to Withdraw. The declaration submitted at Doc. 33-9 is hereby WITHDRAWN and the Court accepts the declaration filed at Doc. 37-1 as a substitute. In light of the motion to withdraw, <u>36</u> Motion to Strike is DENIED as moot. Signed by Judge Nancy J. Rosenstengel on 12/18/17. (klh2) THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 12/18/2017)
12/26/2017	<u>40</u>	First MOTION for Extension of Time <i>to Respond to Motion for Summary Judgment</i> by United States Forest Service. (Garrison, Suzanne) (Entered: 12/26/2017)
12/27/2017	<u>41</u>	ORDER GRANTING <u>40</u> Motion for Extension of Time. Defendant is GRANTED through January 17, 2018 to file a response to Plaintiff's Motion for Summary Judgment. Signed by Magistrate Judge Donald G. Wilkerson on 12/27/2017. (jkb2)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 12/27/2017)

12/28/2017		Set Deadline as to <u>35</u> First MOTION for Summary Judgment. Responses due by 1/17/2018. (jsm2) (Entered: 12/28/2017)
01/04/2018	<u>42</u>	First MOTION for Extension of Time to File Response/Reply by All Plaintiffs. (Turner, Frederick) (Entered: 01/04/2018)
01/04/2018	<u>43</u>	ORDER GRANTING <u>42</u> Motion for Extension of Time to File Response/Reply. Plaintiff is GRANTED through January 17, 2018 to file a supplemental response to Defendant's Motion for Summary Judgment in order to address the substituted Declaration of Matthew Lechner filed by Defendants after Plaintiff's original response was filed. Signed by Magistrate Judge Donald G. Wilkerson on 1/4/2018. (jkb2)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 01/04/2018)
01/04/2018		Set/Reset Deadlines as to <u>33</u> MOTION for Summary Judgment . Supplemental Responses due by 1/17/2018 (kls3) (Entered: 01/05/2018)
01/16/2018	<u>44</u>	Second MOTION for Extension of Time to File Response/Reply as to <u>33</u> MOTION for Summary Judgment by Seth F Turner. (Turner, Frederick) (Entered: 01/16/2018)
01/17/2018	<u>45</u>	ORDER GRANTING <u>44</u> Motion for Extension of Time to File Supplemental Response to <u>33</u> MOTION for Summary Judgment. Supplemental Response due by 1/31/2018. Signed by Magistrate Judge Donald G. Wilkerson on 1/17/2018. (jkb2)THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 01/17/2018)
01/17/2018	<u>46</u>	RESPONSE to Motion re <u>35</u> First MOTION for Summary Judgment filed by United States Forest Service. (Garrison, Suzanne) (Entered: 01/17/2018)
01/31/2018	<u>47</u>	RESPONSE in Opposition re <u>33</u> MOTION for Summary Judgment <i>Supplemental</i> filed by Seth F Turner. (Turner, Frederick) (Entered: 01/31/2018)
01/31/2018	<u>48</u>	MOTION to Strike <u>33</u> MOTION for Summary Judgment <i>Declaration of Matthew Lechner, 37-1, 38-2</i> by Seth F Turner. (Turner, Frederick) (Entered: 01/31/2018)
02/07/2018	<u>49</u>	RESPONSE to <u>48</u> Motion to Strike <i>Declarations</i> filed by United States Forest Service. (Garrison, Suzanne) (Entered: 02/07/2018)
05/09/2018	<u>50</u>	ORDER: This matter is before the Court sua sponte for case management purposes. This case is set for a Final Pretrial Conference on May 15, 2018, but the parties' cross-motions for summary judgment are still pending. The Court would prefer to rule on those motions before holding the Final Pretrial Conference because the ruling may potentially resolve all issues in this matter and make any further proceedings unnecessary. Consequently, the Final Pretrial Conference and presumptive trial month are hereby CANCELED. They will be reset pending a ruling on the motions for summary judgment. Signed by Judge Nancy J. Rosenstengel on 5/9/2018. (klh2) THIS TEXT ENTRY IS AN ORDER OF THE COURT. NO FURTHER DOCUMENTATION WILL BE MAILED. (Entered: 05/09/2018)
08/24/2018	<u>51</u>	ORDER granting <u>33</u> Motion for Summary Judgment; denying <u>35</u> Motion for Summary Judgment; denying <u>48</u> Motion to Strike. This entire action is DISMISSED with prejudice, and the Clerk of Court is DIRECTED to enter judgment accordingly. Signed by Judge Nancy J. Rosenstengel on 8/24/2018. (jmp2) (Entered: 08/24/2018)
08/30/2018	<u>52</u>	CLERK'S JUDGMENT. Signed by Judge Nancy J. Rosenstengel on 8/24/2018. (jmp2) (Entered: 08/30/2018)